



A

V I E W  
OF THE  
MISREPRESENTATIONS  
IN THE  
REPLY to the EXAMINER.

THE argumentative part of the Dispute about the Resolutions of the Delegacy, their Expediency, Usefulness, and Consistency with Mr. Viner's Will, shall have no share in the present Paper. These Points have been sufficiently discuss'd already, and shall be left to the decision of all candid Judges, merely on the footing they now stand, from a Comparison of the *Examination of the Objections*, with the *Reply to the Examiner*. But the *Misrepresentations*, (some of them at least) of *Facts*, and of *himself*, the Examiner (as he is called) thinks proper to be taken some notice of.

1. It is said by the 'Authors of the *Reply*, " that those amongst them, who modestly hinted " objections to the Resolutions, have had the honourable Appellation of *factionous Men* in a " *Corner* bestowed upon them." There is no such Appellation as this bestowed on them in the *Examination*, nor in any Paper that hath made its appearance from the Advocates for the Resolutions. This hint, therefore must mean some application of the word *faction* in Conversation. If this hath ever been the Case; will the Objectors venture to affirm that it was applied to the Opposition in general? Some of the *Individuals*, the Examiner sincerely thinks, cannot wholly be acquitted of this Charge. Such he means as have acted on Principles they dare not openly avow; and such *particularly* as have been endeavouring throughout this Affair, to draw *Party* into the Question. If this be publicly denied, by any Gentleman who will avow such Denial, the Examiner can name the Persons.—Much more might be said on this head; but for nothing of this sort doth he reckon the Delegacy, or himself accountable.

2. He is charged with saying, " that the Manner in which the Opposition hath been " conducted was *indecent* and *illiberal*." —He hath said so, and he will prove it.—He proves it; 1. From the Papers dispers'd to the Common Rooms, immediately after the Publication of the *Resolutions*. In one of which it is suggested, That the Delegates of Convocation have exceeded the Powers committed to them in *all their Resolutions*, except the first; and, That they have violated the Will of our great Benefactor for the sake of paying a Compliment to a *particular Person*: In the same spirit, it is suggested, in another Paper,—That their Resolutions favour of *personal Attachments*;—that they have been endeavouring to undermine the Independency of Convocation;—and that the whole

\* Pag. 1. Line 8.

\* Ibid. P. 20.

\* Printed Paper of Queries. Q. I. and VIII.



Settlement seems calculated chiefly to promote the advantage of one single Person<sup>4</sup>.—These accusations fall very little, if any thing, short of a charge of Perjury; or, at least, great Unfaithfulness to their Trust, and the Duty they, at all times, owe to the University.—But Secondly, He proves it from the Speech delivered in the Theatre; the whole of which was calculated to throw Dirt on the Delegacy in general, and *one person* in particular. He can now go farther and insist, Thirdly, That they continue in the same illiberal Road; as they have insinuated a Design of *trepanning*<sup>5</sup> them into a Consent to the whole Scheme, and, in the transaction of yesterday, set their hands to a paper, in which they accus'd the V. Chancellor and Proctors of voting *iniquitously*, of *violating* the Statutes of the University, and acting a *detestable* part.—These Instances are all drawn from *public* vouchers, from their Speech, their Protest, and their Papers, and are fairly imputable, as *indecent* and *illiberal*, not indeed to the whole opposition, but to some of the Managers and Conductors of it.

3. The Authors of the Reply are pleas'd to revive the memory of an Opposition conducted, "about two Years ago, against the chief Magistrate of the Place"<sup>6</sup>.—No Friend to true Freedom will deny, that Oppositions, when conducted in a constitutional Manner, and tending to some salutary End, may not only be defensible but laudable. If ever any one was so, in both respects, *that* was. The Conductors of it have no reason to be ashamed of the means they made use of; and, as for the End, it hath been universally applauded, and already has done Honour to the University.—Will the Managers of the present Opposition be able to say so much for their Conduct two Years hence?

4. It is denied, by the Replyers, that Mr. Viner's Will, with regard to founding Fellowships, &c. is conditional; or can be understood with these Provisoos. *If his Effects shall be sufficient for that purpose, and If there be any residue*<sup>7</sup>. It is here again insisted on, by the Examiner, that his Comment is drawn directly from the text. "And my Will further is," says Mr. Viner, that *after* an ample Provision shall be *made* and *secured* for such Professor, "the *remaining* part of the monies to arise from the sale of the *residue* of my said Abridgment shall be disposed of for the constituting, establishing, and endowing one or more Fellowship, &c." The "Line of Distinction" is as strongly implied in Mr. Viner's words, as it is express'd in the Examiner's Comment.

5. There is so much Confusion in the Reply<sup>8</sup>, concerning the 6000 Volumes originally intended to be appropriated to the Professor, that one knows not well what to make of it. If these writers design that any thing should be drawn from it for their purpose, of lessening the Salary of the Professor, they must mean by what they have said on this head; that Mr. Viner intended that, after the Professorship, the 1000*l.* for *Aldershot* should be deducted out of these 6000 Volumes, and then supposed that there might well be more than one Fellowship endowed out of the Residue of them. But this is not the truth of the case as it stands in Mr. Viner's papers. The 1000*l.* for *Aldershot*, and the Provision for a Fellowship or Scholarship are there charged upon the Residue of his Abridgment, and Remainder of his personal Estate, exclusive of any part of his 6000 Volumes. And where he mentions a Residue from these Volumes, he plainly means no more than a very trifling one for continuing his Abridgment.

6. The Replyers observe, "That the present Scheme of double Duty marked out for the Professor is actually inconsistent with his Attendance at the Courts of Westminster; and that this will appear to any one who will take the pains to calculate."<sup>9</sup> And yet, after all, one of these very Writers well knows that he hath calculated, and hath been convinced that this Position is false. True or false, however it is nothing to the purpose. The Professor is not oblig'd by the Resolutions to read his complete Course out of the Law Terms; nor has Mr. Viner required that he should.

7. "But why this Cry of Pique, it is said, to a particular Person?"<sup>10</sup>—Consult the Queries, as quoted before.—Recollect the Speech in the Theatre, which, in many expressions, was *illiberally* pointed at him.—Will all the Managers of the Opposition deny, that Candidates have been searched for to oppose him? It is known likewise; that in the late Convocation, among some who were too honest to disguise their Zeal with the Semblance of Candor, the attack was avowedly personal.—But nothing of this Cry of personal pique concerns the Examination.

<sup>4</sup> Written Paper of Queries and Articles, &c. Art. I. Q. I. III. &c.

<sup>5</sup> Reply, P. 3. L. 12.

<sup>6</sup> Ibid. P. 1. L. 23.

<sup>7</sup> Ibid. P. 2. L. 31.

<sup>8</sup> P. 2. L. 46.

<sup>9</sup> P. 3. L. 45.

<sup>10</sup> P. 4. L. 33.



8. It is said by the Writers of the Reply, " That the solemn Lectures are the *only* Business Mr. *Viner* enjoins, and that they are enjoined him not by way of Addition to what may be thought a proper Foot of instruction by Convocation, not as a subordinate part of what may be expected from him, but as the *whole* of his Duty." This is so absolutely untrue, that it appears plainly from Mr. *Viner*'s papers, that the whole Thought of the solemn Lectures was adventitious and supplementary. He makes his Will, dated 1 July 1752, without saying one word about them. The whole regulation consists in nothing but the general direction to the Convocation about the *proper foot* of instruction for young Students in the Law. The solemn Lectures are afterwards suggested to him by his Correspondent, in a marginal remark on one of his rough Draughts. It is there proposed to him, that they should be read once a week in Term-time. But Mr. *Viner*, as if he was determin'd to shew, that this was not to be the main Business of his Professor, enjoins no such thing; but in the paper of additions to his former Wills, first orders them to be read once a Term, and then leaves it to Convocation to determine their Number. Upon the Plan of the Resolutions, say the Replyers, those solemn Lectures are the least and most inconsiderable Part of the Professor's Office.—It is confess'd they are, and our Benefactor plainly intended they should be so.

9. It is roundly asserted (p. 6. l. 6.) " that it is in Consideration of the solemn Lectures, trifling as they are, that the Professor is to receive the ample Stipend of 200*l.* *per Ann.*" For a Confutation of which, let them consult Articles, 8 and 9, of the Resolutions, by which this Stipend is divided into 80*l.* *per Ann.* for the solemn Lectures, and 120*l.* for the complete Course.—" We may observe here that it seems inconceivable to the Repliers that men of eminence and ability should abandon public Employment even for the sake of 300*l.* *per Ann.* especially when it is to be earned by continual Labour and Drudgery." This is thrown out as an argument for transferring the *complete Course* from the Professor to the Fellow. But if the former will not be induced for 200*l.* *per Ann.* and the Profits arising from his Pupils, to undertake this Duty, how great is the Absurdity to suppose that the Fellow, will be called back from his Progress in his Profession, and his Views of Advancement in it, to engage in this Task merely for a precarious income arising from the Gratuities.

10. It is said, (p. vi. l. 10.) " that the Examiner urges the Gratuity as the *only* Security for the Professorship's not becoming a Sine-Cure."—The Examiner's Words are, that the gratuity is the *best* Security for the Professorship's not becoming, in all *useful Effect*, a Sine-Cure.

11. The Examiner is represented (p. vi. l. 32.) as little acquainted with the Business of College Tutors. " The Business of a College Tutor, say the Repliers, is to teach the first Rudiments of the Arts and Sciences; to form the Youth under his Care in the first Principles of the several Branches of Literature, which are professedly taught in the University."—And yet, what is odd enough, this description of a College Tutor, corresponds very well with the Examiner's own Account of it. " The Tutors, says he, we may suppose, find themselves sufficiently employed in superintending the private Studies of their Pupils, and furnishing them with proper Knowledge introductory to those Lectures, viz. of Natural Philosophy, Anatomy, and Chemistry." (Had he been indeed himself a *professed Tutor*, he might have remarked a Deficiency in both these Descriptions, and have mentioned the Conduct of his Pupils as a part of the Tutor's Care). " But will any one say, continue the Repliers, that Mr. *Viner* intended such a Tutor?" Undoubtedly he did. For, if he had intended any thing else, the word Lecturer was very obvious, and, on that supposition would have effectually served his Purpose. The Truth is that Mr. *Viner*, in his original Plan never thought of a Tutor at all. It was a subsequent Engraftment upon his Scheme, and had he perfectly recollected (after sixty Years Absence) the Scheme of collegiate Discipline, perhaps he might never have inserted it: And as it is, he inserts it with Diffidence; ordering not that he *shall be* a Tutor, but that he *shall be proposed* as such. But these Gentlemen will not argue, that till he thought of a Tutor he never thought of any Course of Lectures. Nor can they tell us why it is more improper for the Professor of common Law to read private Law Lectures, than for the Professor of Geometry to read private Lectures in practical Arithmetic, (*præter publicas et solennes in Scholis Lectiones*) which by the Savilian Statutes §. 2. he is enjoined to do: And which he has frequently read, when a sufficient Class, with a proper Gratuity has offered.

12. It is shrewdly observed, (p. 7. l. 5.) " that Mr. *Viner* evidently supposes that his Fellow *should* reside; and therefore requires that he should be of some College or Hall; which he never once hints with regard to the Professor." Mr. *Viner* doth not barely say that the Fellow shall be of some College or Hall, he says that his Fellowships and Scholarships shall be constituted, established, and endowed, in any College or Hall in the University, as to the Convocation



Convocation shall seem most proper, for Students of the Common Law. But it is unfair to conclude from hence that he supposed his Fellow *should* reside, so as to neglect his Profession, and Improvement in the Practice of the Law. Again, it is as absurd to suppose that he intended his Professor should *not* reside, barely because he has intimated no Establishment for him in any College or Hall.

13. In the note (p. 7) it is said, "not many Years ago a Degree was granted by Diploma, and the Seal afterwards denied; a subsequent Convocation repealing the Act of a former." If the Case of Mr. *Wetstein* is meant here, (and we know of none other public refusal of a Diploma within many years past,) it is greatly misrepresented. The Degree was never granted by Diploma. It was rejected in the first instance. It is said farther (*ibid.*) "that at the beginning of this very affair, (of Mr. *Viner*,) some Men talked loudly of denying the Seal, if the Syndic had been elected." They might well be justified in talking so: Since it will now be allowed on all hands, that it was irregular and impracticable, according to the Constitution of the University, to *elect* a Syndic at all. These two Instances are quoted to apologize for the Instability that would appear in our Academical Transactions, could the Opposer's find an Opportunity on Monday next, of annulling the Decrees of the former Convocation. But in both of them the Replyers are very unfortunate. They are both nothing to the Purpose.

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